



National Benefit Fund • Health Care Employees Pension Fund
Greater New York Benefit Fund • Greater New York Pension Fund
Home Care Employees Benefit Fund • Home Care Employees Pension Fund
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June 4, 2019

By E-Filing

The Honorable Frederic Block
United States District Judge and
The Honorable Roanne L. Mann
United States Magistrate Judge
United States District Court for the
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

In re: Long Island Neurological Associates, P.C. v. 1199SEIU National Benefit Fund,
Case No. 2:18-cv-06829 (FB) (RLM)

Dear Judge Block and Magistrate Judge Mann:

This office represents Defendant 1199SEIU National Benefit Fund (“Funds”) in the referenced action. We write pursuant to Judge Block’s Individual Rule 2 to request a pre-motion conference and leave to file a Motion for Dismissal/Summary Judgment.

The bases for summary dismissal of this action include: failure to state a claim, ERISA preemption and failure to exhaust administrative remedies. The Fund is a self-funded multiemployer plan established under the Taft-Hartley Act and ERISA. Any claim for benefits against the Fund must be brought under ERISA, pursuant to that statute’s broad preemption provision. The Fund’s plan of benefit is set forth in the Summary Plan Description (“SPD”) and obligates the Fund only to pay medical claims for covered participants in accordance with its terms. The Plan has done that here. Nothing in the Plan or any applicable law or rule requires the Plan to pay at any particular reimbursement level. In addition, Plaintiff here, an out-of-network provider with no contract or other legal relationship with the Fund, lacks standing based on its alleged assignment, to sue the Fund in its own right. In addition, Plaintiff is not entitled to the disclosure it claims. In addition, the Fund’s administrative remedial scheme has admittedly not been exhausted.

Defendant expects to include the foregoing grounds for dismissal in its motion.

The Honorable Frederick Block and
The Honorable Roanne L. Mann
June 4, 2019
Page 2

In addition, we respectfully request, in the interest of the Court's and the parties' economy and efficiency, that discovery in the case be stayed until a decision on Defendant's anticipated motion to dismiss is rendered.

Thank you for your consideration.

Sincerely,

/s/
Jennifer D. Weekley
Assistant General Counsel
1199SEIU National Benefit and Pension Funds
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